

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

MICHELLE M. MAKAR,

Plaintiff,

v.

NANCY A. BERRYHILL,
Acting Commissioner of Social Security,

Defendant.

Case No. 17-CV-902-JPS

ORDER

Michelle M. Makar filed a complaint in this matter and a motion for leave to proceed *in forma pauperis*. (Docket #1 and #2). The Court may grant the plaintiff's motion to proceed *in forma pauperis* if it determines that: (1) the plaintiff is truly indigent and unable to pay the costs of commencing this action; and (2) the plaintiff's action is neither frivolous nor malicious. 28 U.S.C. §§ 1915(a), (e)(2).

As to the first requirement, the privilege to proceed without payment of costs and fees "is reserved to the many truly impoverished litigants who...would remain without legal remedy if such privilege were not afforded to them." *Brewster v. N. Am. Van Lines, Inc.*, 461 F.2d 649, 651 (7th Cir. 1972). The plaintiff has filed an affidavit accompanying the motion to proceed *in forma pauperis*, which demonstrates that she is indigent. (Docket #2). More precisely, the affidavit shows that the plaintiff is unemployed, living on public assistance and unemployment income, and that her expenses are significantly greater than her income. *Id.* Further, the plaintiff states that she makes up the difference by the assistance of a roommate. *Id.*

The plaintiff's action also is not frivolous or malicious. The complaint includes an allegation that the Administrative Law Judge ("ALJ") erred in reaching a decision. (Docket #1). If that contention is true, then the Court will be obliged to vacate the ALJ's decision. Thus, the plaintiff's action is neither frivolous nor malicious.

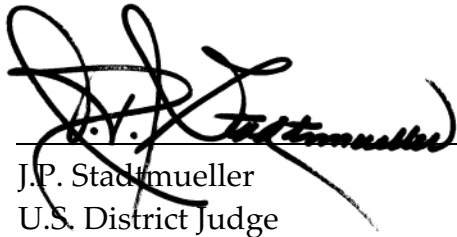
For those reasons, the Court will grant the plaintiff's motion for leave to proceed *in forma pauperis*.

Accordingly,

IT IS ORDERED that the plaintiff's motion for leave to proceed *in forma pauperis* (Docket #2) be and the same is hereby **GRANTED**.

Dated at Milwaukee, Wisconsin, this 7th day of July, 2017.

BY THE COURT:



J.P. Stadtmueller
U.S. District Judge